

REMARKS

Claims 1-5 and 7-36 are pending, with claims 1, 12, 17, 24 and 36 being independent.

Claims 1, 12, 17-19, 24, and 36 have been amended. No new matter has been added.

Reconsideration and allowance of the above-referenced application are respectfully requested.

Specification - Objection to the Prior Amendment:

The Office states that the prior amendment to the specification is considered new matter because it, “changes the definition of ‘machine-readable medium’ of originally filed disclosure” (see 12/18/2006 Office Action at page 7). It should be noted that those of ordinary skill in the art would have readily recognized from the Specification as filed that a “machine-readable medium” referring to a software product or computer program product would include such products embodied in a computer readable medium. Thus, the prior amendment to the Specification does not constitute new matter. Nonetheless, since the Office requires cancellation of the identified language, and in order to expedite prosecution, the new language has now been cancelled by this reply.

Rejection Under 35 U.S.C. § 112:

Claims 11-16, 21-23, 29-30 and 36 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. This contention is respectfully traversed.

Claims 11 and 12 recite, “selecting the transport medium from a group including a peripheral device interface medium and a network communications medium”, and claims 21, 29

and 36 recite similar features. The Specification describes that the selection of transport medium can be "based on current conditions" (*see* Specification at ¶ [0034], page 9, lines 19-23). The Office Action states that, "it will be difficult for a person of ordinary skill in the art to ascertain the conditions based on which the selection of transport medium is done." (*See* 12/18/2006 Office Action at page 8.) However, the Office Action then states that the Examiner was able to ascertain that these conditions can include whether or not the detection tool 540 is local. (*See* 12/18/2006 Office Action at page 9.) This is correct, and makes clear that the enablement requirement has been satisfied. Other examples of the conditions include, which transport mediums are currently operational and any default communication settings a user has previously defined, as would be readily understood by those of ordinary skill in the art. Thus, all of claims 11-16, 21-23, 29-30 and 36 are enabled by the Specification, and withdrawal of the rejection under 35 U.S.C. § 112 is respectfully requested.

Rejection Under 35 U.S.C. § 101:

Claim 1-16 and 18 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Without conceding the propriety of this rejection, and in order to expedite prosecution, the claims have been amended to recite "machine-readable storage medium", as suggested by the Office. In view of this, withdrawal of the rejection under 35 U.S.C. § 101 is respectfully requested.

Rejections Under 35 U.S.C. § 103:

Claims 1-5, 8-15, 17-22, 24, 26-29 and 32-36 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Adelstein et al. (US 2004/0260733 A1) in view of Stevens (U.S. 2002/0133702 A1), with Assaf (US 6,728,830 B1), Moore (US 2004/0003135 A1) and definition of Hardware Abstraction Layer (HAL) from <http://en.wikipedia.org> included as supporting documents. Claims 15, 23 and 30 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Adelstein et al. in view of Stevens and Assaf as applied to claims 1, 9-11 and 12, and further in view of William Stallings (Data & Computer Communications, sixth edition, published, 2000). Claim 7 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Adelstein et al. in view of Stevens and Assaf as applied to claims 1-5, and further in view of Rothman et al. (US 2004/0158698 A1). Claims 16 and 30 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Adelstein et al. in view of Stevens and Assaf as applied to claims 1, 9-14 and 24-29, and further in view of Joy et al. (US 2002/0093982 A1). Claims 25 and 31 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Adelstein et al. in view of Stevens and Assaf, and further in view of NIST (National Institute of Standards and Technology) Hard Disk Write Block Tool Specification. These contentions are respectfully traversed.

Independent claims 1, 12, 17, 24 and 36 have been amended to more clearly emphasize their patentable distinctions. Each of claims 1, 12, 17, 24 and 36 now recite, "bypassing any storage area protection interface capabilities included in a Basic Input Output System (BIOS) of the data processing system". As described in the Specification:

The protected area 212 of the storage device 210 effectively offers malicious users a place to store contraband or malware. Since the protected area 212 is not normally seen by the system BIOS or operating system, many computer forensics tools do not detect, analyze or image this area, or at least cannot do so easily. To assist law enforcement and information security personnel in determining if a user has utilized the protected area 212 to hide contraband or malware, a kernel-mode software module 230 can be used to provide access to the protected area 212 and enable live imaging and analysis of the protected area 212 from within the running operating system 220 and without rebooting the data processing system 200.

[...]

Thus, the software module 230 and the detection application 240 can provide direct and live access to the protected storage area 212 in order to image or analyze the protected storage area 212 in support of some detection function. The software module 230 and the detection application 240 enable direct access to the protected storage area live from the high level operating system without the need to reboot.

(See Specification at ¶s 21 and 23; and Fig. 2; emphasis added.)

Stevens describes methods for granting access to a protected area, such as a hard disk drive of a computer, after the computer has been booted, by introducing BIOS (Basic Input/Output System) modules that may be accessed after the computer is in normal operation. (See *e.g.*, Stevens at ¶s 8-9, 19, 45-46, 48-49, and 53.) Furthermore, Stevens teaches that a calling process can access the protected area 27 by locating and using an interface of the system firmware. (See *e.g.*, Stevens at ¶ 64; emphasis added.) The focus of Stevens is to add storage

area protection interface capabilities to system firmware (i.e., the BIOS) in order to facilitate storage of data.

In contrast, the presently claimed subject matter involves bypassing any storage area protection interface capabilities included in BIOS, as described in Stevens, when removing storage area protection, in order to analyze the protected area to assist law enforcement and information security personnel in determining if a user has utilized the protected area to hide contraband or malware. Because of this purpose, it is important that the claimed subject matter not rely on particular storage area protection interface capabilities of system firmware, as described in Stevens, which may or may not be present on target computing systems. Since a specific type of BIOS is not required by the claimed subject matter, many more computing systems can be analyzed.

Thus, independent claims 1, 12, 17, 24 and 36 are each clearly distinguished from the proposed combinations of references and should be in condition for allowance. Dependent claims 2-5, 7-11, 13-16, 18-23 and 25-35 should be patentable based on the above arguments and the additional recitations they contain.

Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific issue or comment does not signify agreement with or concession of that issue or comment. Because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been

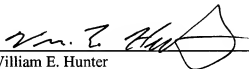
expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

It is respectfully suggested for all of these reasons, that the current rejections are overcome, that none of the cited art teaches or suggests the features which are claimed, and therefore that all of these claims should be in condition for allowance. A formal notice of allowance is thus respectfully requested.

Please apply the one month extension of time fee, and any other necessary charges or credits to deposit account 06-1050.

Respectfully submitted,

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